

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1550

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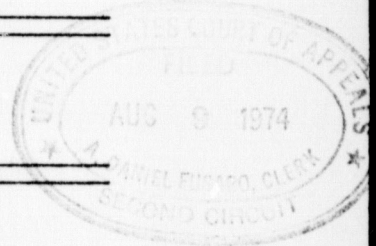
IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
CARMINE TRAMUNTI, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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DEFENDANTS-APPELLANTS' JOINT APPENDIX
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2 Q Quite a few months ago would be when, sir?

3 A I don't know. Six, seven months ago.

4 Q That would be, say, in October, September,

5 October of '73?

6 A Yes.

7 Q That wasn't the first time that you had been

8 questioned regarding the charges pending against you,

9 was it?

10 A By Mr. Nolan?

11 Q By anybody.

12 A No, it wasn't.

13 Q When was the first time that you were questioned

14 with regard to the charges pending against you?

15 A Maybe June or July.

16 Q Of 1973?

17 A Yes.

18 Q And you were arrested when?

19 A February.

20 Q When you were arrested, you were arraigned

21 immediately thereafter, weren't you?

22 A Yes.

23 Q And at that time, at the arraignment, what were

24 you charged with?

25 A I was charged with four counts, three counts

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of sale and one count of conspiracy.

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Q And was bail set for you?

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A Yes.

5

Q How much?

6

A \$25,000.

7

Q And did you make that bail?

8

A Yes.

9

Q Who supplied the bail for you?

10

A I borrowed the money.

11

Q From whom?

12

A My brother-in-law and his wife.

13

Q You borrowed the cash?

14

A Yes.

15

Q After you were released on bail, did you then

16

make contact with any Government agent?

17

A No.

18

Q How did you come to speak to Mr. Nolan?

19

A This is quite a while after I was out on bail.

20

Q I'm sorry?

21

A It was quite a while after I was out on bail.

22

Q That's what I asked you.

23

After you were released on bail, did you make

24

any contact with any Government agent?

25

A Yes, months later. Yes.

Q Was Mr. Nolan the first Government representative that you made contact with?

A Yes.

Q And was that voluntary on your part or was there some solicitation by somebody on the Government for you to make contact with him?

A No, it was voluntary on my part.

Q And will you explain to his Honor and the jury what caused you to bring about this conference?

A Well, our attorney contacted three of us one afternoon, my brother, myself and my brother-in-law, and he wanted to see us in his office.

Q Who wanted to see you?

A Our attorney.

We went down to his office and he said that a Government agent was in touch with him --

MR. FISHER: Objection, if your Honor please, to what the attorney said.

THE COURT: This is really an answer to Mr. King's question as to the reasons why. That was what I was afraid of.

MR. FISHER: I submit, your Honor, even if it is, it is improper.

THE COURT: After you went to see your attorney

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2 then you went to see the agent, is that correct?

3 THE WITNESS:—Yes.

4 THE COURT: All right, go ahead, Mr. King.

5 MR. KING: Are you sustaining the objection,
6 sir?

7 THE COURT: Yes, I am.

8 MR. KING: Thank you.

9 Q Let me ask you this:

10 Don't tell us what your attorney said, but did
11 you decide to go and see somebody in the Government, and
12 you knew that the purpose of that trip would be that you
13 were going to turn informant, is that right?

14 MR. PHILLIPS: Objection to the form of the
15 question. I think it is two questions rolled into one.

16 THE COURT: Yes, I think it is two questions
17 rolled into one. Let us break them up into two.

18 After you went to see your attorney, you then
19 went to see some official of the Government, is that
20 correct?

21 THE WITNESS: Yes.

22 THE COURT: At the time that you went to see the
23 official, of the Government, did you know that you would be
24 asked about your participation in these transactions and
25 also the participation of others?

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THE WITNESS: No, not that particular time, no.

Q When did you first learn that you would be asked these questions?

A After we agreed to talk to them.

Q After what, sir?

A After we agreed to talk to the Government, myself, my brother-in-law and my brother.

Q And you had this talk with Mr. Nolan?

A Yes.

Q Were the three of you present?

A Yes.

Q At the time before you gave the statement to Mr. Nolan, did you say, in effect, to him "Well, what if I do, what can I expect for it," in so many words?

A Yes. Yes.

Q I mean, you didn't decide to do this because of any impulse of civic virtue, did you?

A Can you -- can you say that --

Q Well, you didn't decide to do this because you thought it was the correct thing for a citizen to do, did you?

A. No.

Q How long, to the best of your recollection, did that interrogation by Mr. Nolan of you take?

2 A I'd say six, seven weeks.

3 Q Over a period of six, seven weeks, is that what
4 you are saying?

5 A Yes.

6 Q And about how many hours on each occasion?

7 A Anywhere from two hours to three or four hours.

8 Q So it would be approximately anywhere from
9 12 to 18 hours, is that right?

10 A Yes.

11 Q And during this time or before, did Mr. Nolan
12 or anyone else on behalf of the Government say, in effect,
13 that if you told them the complete story and a true story,
14 they would tell the judge that you had cooperated?

15 A Yes.

16 Q And that's why you decided to do it, isn't that
17 right?

18 A There were other reasons.

19 Q Were there other reasons?

20 A Yes, there was.

21 Q Would you state them?

22 A Yes, I will be glad to state them.

23 Q . Please.

24 A The main reason why I decided to cooperate
25 was because everyone had turned their back on me, my

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2 brother and my brother-in-law regarding help in any way,
3 shape or form, see, and I was very angry over it.

4 Q So you decided to get even on them, is that
5 right?

6 A Yes, exactly.

7 Q That's what I want to hear.

8 MR. KING: Will your Honor bear with me a
9 moment?

10 THE COURT: Sure.

11 (Pause.)

12 Q I show you a document entitled "November and
13 December of 1971."

14 MR. KING: Does that have an exhibit number,
15 Mr. Engel?

16 MR. PHILLIPS: That is part of Government's
17 Exhibit 3568. The only thing you are missing are the
18 first two pages.

19 Q That is referred to as Government Exhibit 3568
20 for identification.

21 Would you be good enough to look at that
22 exhibit, sir, and tell me when you were debriefed on
23 that?

24 MR. PHILLIPS: I object to the form of the
25 question, your Honor.

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2 THE COURT: Yes. It is a little difficult.
3 Take a look at the exhibit, would you please,
4 Mr. Pannirello.

5 THE WITNESS: Yes, sir.

6 THE COURT: Have you seen this document before?

7 THE WITNESS: Yes.

8 THE COURT: It represents a summary of notes
9 taken concerning your conversation with certain agents,
10 is that correct?

11 THE WITNESS: Yes.

12 THE COURT: Those conversations with those
13 agents, could you tell us when those occurred?

14 THE WITNESS: I think it was the same time that
15 I had the other conversations with them with the other
16 thing --

17 Q The document I showed you before?

18 A Yes, yes.

19 Q I think you just answered to one of my questions
20 before that you were promised that if you would cooperate
21 the Judge would be informed about that and you could expect
22 some leniency, words to that effect, is that right?

23 A No. The only thing that I was told is that
24 Mr. Phillips would speak to the Judge, that's all. There
25 was no promises made, no promises at all.

2 Q As well as you can remember, give me the
3 substance of what was said and you say it was not a
4 promise?

5 A Mr. Phillips told me that he would speak to the
6 Judge and he would let him know that I cooperated with the
7 Government 100 per cent.

8 Q And when did Mr. Phillips tell you that?

9 A A while back. A couple of months ago.

10 Q A couple of months ago?

11 A Yes.

12 Q When you say a couple, you mean two, three, four,
13 five or six?

14 A No, two.

15 Q Two months ago?

16 A Yes.

17 Q As late as that? That would be in December?

18 A Yes.

19 Q Of '73?

20 A Yes.

21 Q . Coming back to January 10, when I examined you
22 before trial, did I ask you the following question and did
23 you give the following answer --

24 MR. PHILLIPS: I object, your Honor.

25 MR. KING: I am referring to page 6, Mr.

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Phillips.

THE COURT: Yes. There is no indication of any exhaustion of recollection whereby we have to go back.

By the way, was this a straight EBT?

MR. KING: This was on the discovery, Judge.

THE COURT: I am at a bit of a loss.

Would you gentlemen come up here?

(At the side bar.)

THE COURT: I have never heard of an examination before trial in a criminal case.

What is this?

MR. KING: When we have the discovery proceeding I believe it was on December 20th down here, I asked Mr. Phillips if I could examine Mr. Pannirello before trial and he said, in effect, "Sure".

Do you recall that?

MR. PHILLIPS: That is not altogether accurate, but I think I can clear that up.

On December 20th a request was made by defense counsel to examine those witnesses who were in Federal protective custody and I said the Government would consent to such an examination, and I think if your Honor will recall on January 7th the matter came up at a pretrial conference, at which time I set the time as Thursday on

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2 January 10th at 2 o'clock.

3 MR. KING: Right.

4 MR. PHILLIPS: At that time counsel came and
5 Mr. Pannirello was made available to counsel, and I
6 recall you had a stenographer, you were the only person
7 who had a stenographer.

8 I don't know what Mr. Pannirello said, you
9 haven't provided me with a transcript of anything he said.

10 MR. KING: I told you I was going to have a
11 reporter present.

12 I think, Judge, you might recall I even called
13 your office about it.

14 MR. PHILLIPS: You were about to pose a question
15 to Mr. Pannirello and you said, "Page 6, Mr. Phillips",
16 and I don't know what you are talking about, because --

17 MR. KING: Because you don't have a copy of it.
18 I will be very happy to let you look at it.

19 This is a transcription made by a certified
20 shorthand reporter, signed by him, sworn to by him of the
21 Esquire Reporting Company.

22 THE COURT: All right. He doesn't have a
23 copy of it now.

24 MR. KING: Sire?

25 THE COURT: He doesn't have a copy of it now.

2 Can you go to a different thing at this point
3 and then we will make copies over the evening so Mr.
4 Phillips has a copy and maybe you will grace me with a
5 copy, also?

6 MR. PHILLIPS: I am not even at this point
7 asking for a copy, but I am objecting to the line of
8 questioning because what Mr. King is trying to do is to
9 refresh his recollection when there has been no showing
10 that his recollection needs refreshing.

11 MR. KING: I will ask him to read it and ask
12 him if it refreshes his recollection.

13 But, Judge, Mr. Phillips was present and he
14 saw a court reporter there taking notes.

15 You were in and out of the room, right?

16 MR. PHILLIPS: You had a stenographer there.
17 I don't know who he was.

18 THE COURT: All right. But, look, my problem
19 is, can you go to a different area right now so that we
20 don't delay this?

21 MR. KING: I hate to interrupt this.

22 THE COURT: The problem is nobody else has a
23 copy of this thing.

24 MR. KING: Judge, if that is a big deal, I
25 can -- actually there is only one page.

2 MR. PHILLIPS: What do you want to ask him?

3 Maybe we can clear it up.

4 MR. KING: I want to ask him if he was promised--
5 where is it?

6 I am going to ask him, "Have any promises been
7 made to you for your testimony to be in any certain manner
8 in connection with this trial?"

9 And he answered, "No."

10 MR. PHILLIPS: I have no objection to this line
11 of questioning, your Honor.

12 THE COURT: Okay.

13 MR. KING: All right?

14 THE COURT: Sure, go ahead.

15 (In open court.)

16 BY MR. KING:

17 Q Mr. Pannirello, I show you this portion of the
18 the examination I conducted of you on page 6 on January 10
19 and ask you to look at it and see if it refreshes your
20 recollection as to what you testified to (handing).

21 MR. PHILLIPS: Your Honor, I object. The basis
22 of my objection is --

23 THE COURT: Yes, I am well aware of the basis
24 of your objection. The form of the question is bad.

25 Do you recall having a conversation with Mr.

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2 King on or about January 10, 1974?

3 THE WITNESS: Yes.

4 Q And does this refresh your recollection?

5 A Yes.

6 Q And on January 10, 1974, did I ask you the
7 following question and did you make the following answer:

8 "Have any promises been made to you for your
9 testimony to be given in any certain manner in
10 connection with this trial?

11 "A No."

12 Did I ask you that question and did you make
13 that answer?

14 A Yes.

15 Q But you have just immediately prior to th is
16 told us that in or about December when you were speaking
17 to Mr. Phillips you gathered the impression from what he
18 said that if you cooperated he would speak to the Judge
19 and inform the Judge that you had cooperated, right?

20 A Yes.

21 Q So that when you made this answer, you weren't
22 telling the truth, were you?

23 MR. PHILLIPS: Objection.

24 THE COURT: Sustained.

25 Q You stated before that among other reasons for

2 your hope of leniency in cooperating with the Government
3 that "Everyone turned his back on me", is that right?

4 A That's correct.

5 Q You know that I represent John Gamba, don't you?

6 A Yes.

7 Q Did he turn his back on you? Yes or no.

8 A In what respect?

9 Q I'm sorry?

10 A In what respect are you referring to? I don't
11 understand.

12 Q What respect did you mean it? I'll ask the
13 questions, you give the answers.

14 What respect did you mean it in when you said
15 "Everyone turned his back on me"? What do you mean by
16 that?

17 A When I needed help, when I needed money for a
18 lawyer, for bail.

19 Q All right.

20 Did John Gamba turn his back on you?

21 A I never went to John Gamba.

22 Q What?

23 A I never went to John Gamba.

24 Q I'm sorry?

25 A I never went to John Gamba.

2 THE COURT: He never went to John Gamba.

3 Q So that he didn't have a chance to turn his back
4 on you, right? Right?

5 A Correct.

6 THE COURT: I think the question answers itself.

7 Q Nevertheless, you implicated him in this, too,
8 did you not?

9 MR. PHILLIPS: Objection, your Honor. It is
10 argumentative.

11 THE COURT: Yes. Reframe the question, Mr.
12 King.

13 Q You stated before in answer to Mr. Rosenberg's
14 many questions that you don't have a good memory for dates.
15 Is that what you said?

16 A That's right.

17 Q But when you were debriefed by Mr. Nolan, you
18 had no hesitation in giving him dates as to each and every
19 event which allegedly took place and about which you were
20 telling him? You knew the dates then, didn't you?

21 A I was talking to Mr. Nolan off the top of my
22 head. When he was asking me the questions, I was giving
23 him the answers to them. I wasn't really going into
24 detail and really thinking about it.

25 Q Finish your answer.

1 A I said I wasn't going into detail on dates.
2
3 He asked me a question and I told him "Well, it was around
4 December", or "It was around January", you know, to the best
5 of my recollection.

6 Q May I infer from what you just said that since
7 you don't know dates that dates were suggested to you by
8 your interrogators?

9 How did the dates get in this debriefing?

10 A Well, we kept going over it and I was remember-
11 ing some of it and I was, you know, piecing together the
12 times I did remember and about the time when they were.

13 Q Mr. Pannirello, I am asking you one question:
14 In your testimony, in your direct testimony in
15 answer to Mr. Phillips' question, you had no difficulty
16 remembering dates, did you?

17 A Yes, I did.

18 Q You recall that you did?

19 A Yes.

20 Q Do you know how many times you said "I don't
21 remember a date" in yesterday's testimony in answer to
22 questions by Mr. Phillips?

23 A How many times?

24 Q Yes.

25 A No, I don't remember.

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2 Q Was it three times, six times, ten times?

3 A Don't remember.

4 Q What is your best recollection as to how many
5 times you told Mr. Phillips "I don't remember the date"?

6 A Three or four times.

7 Q Did you at any time say to him, "I don't remember
8 the incident"?

9 MR. PHILLIPS: I object to that, your Honor.

10 THE COURT: Yes. That is argumentative.

11 Q I am referring now to Government's Exhibit 3569-A
12 the third paragraph down, in answer to a question you say,
13 "I really don't remember what the hell went on then".

14 Do you recall saying that?

15 A Not at this moment, no.

16 Q And on page 7, the third line from the bottom,
17 you say, "I don't remember why I met him there".

18 Do you remember saying that?

19 MR. PHILLIPS: Your Honor, I object to this
20 line of questioning. This is not proper cross-examination.
21 There is no foundation.

22 THE COURT: No. Basically, Mr. King, what you
23 are doing is taking --

24 MR. KING: I am sorry, Judge, I didn't hear you
25 at all.

THE COURT: I am sustaining the objection.

Unfortunately, what it seems to be you are taking answers without questions and I don't know what is going on. You can pick out four words on a page and make it into something which is --

MR. KING: I stand corrected. You are right.

THE COURT: That is all right.

Q On page 6 of the same exhibit, the question, which is identified only by voice, "What was this, a delivery to be made then or what?

"PANNIRELLO: I don't remember why I met him there."

Do you remember that question and do you remember that answer?

MR. PHILLIPS: Objection.

THE COURT: Let me have a copy of that thing, please.

(Handing to the Court.)

THE COURT: I will sustain the objection.

At one time, Mr. Pannirello, you told Agent Nolan, did you not, that you were going to meet Allen at a bar right off 46 going down to Shield Park. Do you remember that?

THE WITNESS: Yes.

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2 THE COURT: And that bar is right by the
3 viaduct, is that right?

4 THE WITNESS: Yes.

5 THE COURT: At the time that you were to meet hi
6 then, do you recall what that was for?

7 THE WITNESS: No, I don't.

8 THE COURT: Do you remember Agent Nolan saying
9 to you, "What was this, a delivery to be made then or
10 what?"

11 And did you respond, "I don't know why I met him
12 there"?

13 THE WITNESS: Yes.

14 Q On page 7, the third question on that page, you
15 were asked:

16 "Do you remember what time of the year this was
17 This was in 1972?

18 "PANNIRELLO: No. It had to be around that
19 time, a little after the time this here-- maybe it
20 was March, you know, I really don't remember."

21 Was that question asked and did you give that
22 answer?

23 A Yes.

24 Q On page 8, the first question:

25 "Do you vaguely -- do you remember anything about

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the conversation? You don't know if he was going to deliver something or pick up money or just talk to him or --

"PANNIRELLO: No, I don't remember anything about the conversation I had with him."

MR. PHILLIPS: Your Honor, I object to this.

THE COURT: Yes, I understand.

I sustain the objection, Mr. King.

At the time that you met --

MR. KING: All right, Judge, let me ask this question.

THE COURT: All right.

Q If I were to tell you, Mr. Pannirello, that in this debriefing you mentioned no less than 13 times or you said no less 13 times --

MR. PHILLIPS: Your Honor, I object.

MR. KING: May I finish my question, Mr. Phillips, please?

THE COURT: Let him finish the question.

Q Your answers to questions, no less than 13 times was, "I don't remember, would you dispute it?"

MR. PHILLIPS: Objection.

THE COURT: Sustained.

Q You stated that it was Mr. Phillips, as I recall

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your answer to Mr. Rosenberg, that it was only Mr. Phillips
who intimated to you that if you cooperated with the
Government that he would notify the Judge about that, that
it was only he and nobody else, is that right?

A To the best of my recollection, yes.

1 Q And you relied on that, did you?

2 A Yes.

3 Q Weren't you afraid that Mr. Phillips -- I am
4 crossing my fingers -- weren't you afraid, if Mr.
5 Phillips dropped dead, what would happen to you, if he
6 was the only one who told it to you? Did that occur
7 to you?
8

9 A No, it did not.

10 Q How did you meet Mr. Gamba?

11 A Butch Pugliese introduced me to him.

12 Q Butch Pugliese took you?

13 A Yes.

14 Q Is that what you said?

15 A Yes.

16 Q Took you to where?

17 A To Mr. Gamba's house.

18 Q Where is Mr. Gamba's house?

19 A Rosedale Avenue in the Bronx, off Rosedale
20 Avenue.

21 Q And when was that?

22 A In 1970 some time.

23 Q Isn't it a fact that it was your brother
24 Johnny who introduced you to Mr. Gamba? Does that refresh
25 your recollection?

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A No.

Q Isn't it a fact that you met Mr. Gamba at a kids
baseball game where your brother John and you were pre-
sent and Johnny introduced you at that time? Do
you recall that?

A No, I don't.

Q Did you ask me when?

A I said no, I don't.

Q When was the time that Mr. Pugliese introduced
you to Mr. Gamba?

A Can I say the time?

Q Yes. You just told me before. Didn't
you say some year? When I asked you when were you
introduced didn't you tell me when?

A Yes. In 1971.

Q '71?

A Yes.

Q What month was that?

A I don't recall offhand.

Q Was it In the winter, spring, summer or fall?

A I don't recall.

Q You don't recall at all?

A No.

Q Was there any purpose in Mr. Pugliese taking

1 you to Mr. Gamba's house?

2 A No, not at the time. Not at the time, ho.

3 Q As you narrated the story contained in Govern-
4 ment's Exhibit 3569A for identification didn't you include
5 in that story that the narcotics that you were going to
6 handle was stored in a garage?

7 A Yes.

8 Q To which Mr. Pugliese allegedly had a key?

9 A Yes.

10 Q And didn't you also state in that story
11 that Mr. Pugliese allegedly gave you the key to
12 that garage and that's where you picked what you call the
13 goods up from, is that right?

14 A Yes.

15 Q And that is the place that became your what you
16 call stash, right?

17 A Not really.

18 Q Of course, I don't have to tell you what
19 stash is; you know what it is, don't you?

20 A Yes.

21 Q You keep the narcotics in a garage after this
22 alleged arrangement with Mr. Pugliese?

23 A That one time, yes, I do recall keeping it
24 there that one time.
25

1

2

Q Just one time?

3

A That one particular time, yes.

4

Q When was that?

5

A That was in September, '71.

6

Q When did you make this alleged arrangement
with Mr. Pugliese?

8

A When?

9

Q Yes, that you have testified to here.

10

A The night that the three of us were in Pat
Dilacio's apartment.

12

Q I am sorry?

13

A The night the three of us were in Pat Dilacio's
apartment.

15

Q I didn't ask you where; I asked you when.

16

A That was in September.

17

O Of what year?

18

A 1971.

19

Q When is it your claim that you made an arrange-
ment to keep the narcotics at Mr. Garba's house?

21

A I don't recall the exact month.

22

Q Give it to me as near as you can remember.

23

A October.

24

Q Of?

25

A '71.

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Q '71?

A Yes.

Q Where was this arrangement made?

A I don't recall where.

Q You don't know where it was made?

A No, not at this moment, sir.

Q Not at this moment, no.

Q Was there any other moment that you remembered it?

A No. It could have been that I might have been up at Sinatra's house and the arrangement was made or I might have been at Pat Dilacio's house and the arrangement was made.

Q You mean you made many arrangements?

A No.

Q When was the arrangement made between you and Mr. Gamba, the alleged arrangement?

A I don't recall.

Q What?

A I don't recall.

Q Was Mr. Gamba to receive any consideration for allegedly keeping these narcotics at his house?

A Yes.

Q What was he to receive?

1 A \$300 a week.

2 Q I think you told your interrogator he was to
3 receive his \$300 whether he kept the goods or he
4 didn't, is that right?

5 A Yes.

6 Q For how long a period did you give him \$300
7 a week?

8 A A few months.

9 Q A few months?

10 A Yes.

11 Q When you say a few months what in your mind does
12 that represent in numbers?

13 A Four months, five months.

14 Q Four or five months you gave him \$300 a week?

15 A Yes.

16 Q Is that right? Is that what you are saying?

17 A Yes.

18 Q Could it have been more than \$300 a week?

19 A Yes, I gave him more than \$300, not --

20 Q Did you give him \$500 a week.

21 A No, no. Excuse me. What I meant to say
22 was that the agreement that we had made was that we would
23 pay him \$300 a week salary, but I gave him extra money.

24 Q How much extra money did you give him?

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2 A I don't know the exact amount offhand.

3 Q Was it \$5000?

4 A No, no.

5 Q Was it \$3000?

6 A I really couldn't say.

7 Q Was it less than \$3000?

8 A Could have been.

9 Q Was it \$1000?

10 A Yes.

11 Q Was it less than \$1000?

12 A No.

13 Q You had your brother Johnny working for you,
14 didn't you? After you had entered into this alleged
15 partnership you had your brother Johnny working for
16 you, is that right?

17 A Yes.

18 Q Do you remember what you were paying your
19 brother Johnny?

20 MR. KING: I will withdraw that question.

21 Q Do you remember what you promised to pay
22 your brother Johnny?

23 A No.

24 Q If I told you that you have testified that
25 you promised to give him \$250 a week would you dispute

1 A Yes.

2 Q And you agreed to give him \$300 for taking a
3 passive action in this, passive stance in this, but you
4 wanted to give your own brother \$250 a week for making
5 pickups and making deliveries, is that right?
6

7 MR. PHILLIPS: Objection.

8 THE COURT: Sustained.

9 Q You say this arrangement with Mr. Gamba lasted
10 some four or five months?

11 A Yes, something like that.

12 Q Sir?

13 A Yes.

14 Q You are pretty sure of that, aren't you?

15 A Not positive.

16 Q What is your best recollection?

17 A Four or five months is my best recollection.

18 Q In your testimony given to Mr. Nolan you men-
19 tioned a dry period. Do you recall that?

20 A Yes.

21 MR. PHILLIPS: Your Honor, I object to the
22 phrase "testimony."

23 THE COURT: All right. In your statement
24 given to Mr. Nolan. I think that is what you mean,
25 Mr. King. It's a statement, not testimony. All

2 right?

3 MR. KING: Right. I should have said
4 statement. I am sorry.

5 THE COURT: All right.

6 Q Will you explain to the court and jury what you
7 mean by the phrase "dry statement."

8 A There were no goods to be had.

9 Q When did that commence?

10 A The best of my recollection, it was 1972.

11 Q 1972?

12 A Yes.

13 Q About January, February?

14 A From May to September of 1972.

15 Q From May to September of 1972?

16 A Yes, somewhere around there, yes.

17 Q You remembered that date all right, didn't
18 you?

19 THE COURT: I assume that comment is with-
20 drawn.

21 Q Mr. Pannirello, you say you were arrested in
22 February, on February 3, 1973, is that correct?

23 A Yes.

24 Q And you made bail how soon after that?

25 A Six days.

Q What have you been doing since by way of supporting yourself?

A Working.

Q You have been working?

A Yes.

Q For the United States Government?

A No.

Q Whom have you been working for?

A For a restaurant and for a construction company.

Q Is it your statement you received no kind of consideration from February 9th to the present date from the government in return for your cooperation?

MR. PHILLIPS: Objection as too broad, your Honor.

THE COURT: Yes. I think the term "consideration" is too all-encompassing. Why don't you break it down a little bit more than that.

Q Have you received any money from the government from February 9th, approximately February 9, 1973, until the present time?

A Yes.

Q How much have you received?

A Last week I received \$250.

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H. Pannirello-cross

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Q That was last week. How much did you receive before then?

A \$300.

Q When was that?

A November, the end of November.

Q November of last year?

A Yes.

Q And what did you receive before that?

A Nothing.

Q What was this \$500 given to you for? Were you told?

A The \$200 that I -- the \$250 that I got last week is for me to pay for my board and meals.

Q For your board?

A Yes, and meals.

Q What was the \$300 for?

A Excused me?

Q The \$300 that you got in November, what was that for?

A Witness fee, witness fees.

Q Witness fee, is that what you said?

A Yes.

Q How much are you earning in your work at the restaurant?

1

2

A How much was I earning?

3

Q Not was; are you presently --

4

A I am not working now.

5

Q What are you doing now?

6

A Nothing.

7

Q When you say nothing, you mean you are

8

unemployed?

9

A Yes.

10

Q How long have you been unemployed?

11

A Since December 24th.

12

Q December of last year?

13

A Yes.

14

Q Did you apply for unemployment insurance?

15

A Yes, I just did.

16

Q How long previous to the time that you applied
for unemployment insurance had you been employed, legiti-

18

mately?

19

A Legitimately?

20

Q Yes.

21

A From February -- from March, 1973 up until

22

this past December.

23

Q Till when, sir?

24

A Up until this past December, up until December

25

24th of '73.

2 Q When you were employed how much were you
3 earning?

4 A When I was working at the restaurant I was earning
5 \$200 a week.

6 Q How much?

7 A \$200 a week.

8 Q Doing what?

9 A Excuse me?

10 Q What were you doing in the restaurant earning
11 \$200 a week?

12 A I was chef's assistant.

13 Q On direct examination yesterday by Mr. Phillips you
14 had a question or do you recall his asking you a ques-
15 tion whether you knew who or where the stash was? Do you
16 recall his asking you that question?

17 A No.

18 Q I direct your attention to page 2154 of the
19 trial transcript of February 14th and I ask you whether
20 you were asked the following question and whether you
21 gave the following answer, by Mr. Phillips:

22 "Q Did he mention who the stash was?

23 "A To the best of my recollection now,
24 no."

25 Was that question asked and did you give that

answer?

MR. PHILLIPS: Your Honor, I object to that, being taken out of context. I think the previous questions and answers --

THE COURT: Yes. If you are going to ask that --

MR. KING: Line 21.

THE COURT: I have read it. You are going to have to start off at --

MR. KING: You want me to start at 14, Judge?

THE COURT: Yes, 12 or 14.

MR. KING: All right.

Q Starting at 12, Mr. Phillips asked you:

"Q Would you tell us what you recall what was said by each of you on that occasion?"

Mr. Phillips was referring to you and Butch -- I am sorry -- Mr. Pugliese.

"Q Would you tell us what you recall what was said by each of you on that occasion?"

"A Butch said to me and Pat -- Mr. Pugliese said to me and Pat that he was going to leave us with two kilos of heroin and some cash before he was to go away and he wanted Pat Dilario to pick up the heroin and take it to a stash and he wanted me to take it from the

stash and deliver it to the customer.

"Q Did he mention who the stash was?

"A To the best of my recollection now, no."

Do you recall being asked those questions and giving those answers?

A Yes.

Q Now, that was before recess, Mr. Pannirello. Then after recess the following questions and answers are indicated on page 2175, starting on line 16:

"Q What arrangement did you make, if any, with Dilacio concerning the kilo?

"A Dilacio was to pick it up from DiNapoli and to take it to the stash.

"Q Where was the stash?

"A It was at Sinatra's house."

Between the first time that you answered and after recess your memory was sharpened and you knew it then?

MR. PHILLIPS: Objection, your Honor. This is misleading. I think the next question and answer ought to be read too.

THE COURT: Go ahead, read the next question and answer.

MR. PHILLIPS: "Q Was this the first time

1 to your knowledge, that Sinatra's house was ever used as
2 the stash?
3

4 "A No."

5 THE COURT: All right. Is the question
6 complete on the record?

7 MR. KING: Read it back, please.

8 (Record read.)

9 MR. PHILLIPS: Your Honor, I further object
10 on the ground that it is misleading in that what was
11 being asked on this occasion was entirely different from
12 what was being asked on the prior occasion.

13 THE COURT: I wondered why you hadn't made it
14 before. The objection is sustained.

15 MR. KING: If your Honor please, I didn't
16 realize that it was so late. I respectfully ask to
17 reserve my right to resume cross examination in view of the
18 lateness of the hour.

19 THE COURT: All right. You mean tomorrow
20 morning or at some time --

21 MR. KING: Yes.

22 THE COURT: All right. Ladies and
23 gentlemen, the marshal will take you out right now.

24 (The jury left the courtroom.)

25 (The witness left the courtroom.)

1 THE COURT: Mr. King, I let you go on past
2
3 the normal hour because I know of your train problems.
4 I do intend to start tomorrow at 10 o'clock. I am
5 sorry. That means most likely, with your commuting
6 service, you will get here at 8 o'clock. If you do,
7 go next door to the church and say a prayer for all of
8 us.

9 I would suggest, since we have had a very
10 long day, if you want to make applications you wait.

11 Mr. Ellis, you have a little personal problem
12 which you would like to put on the record?

13 MR. ELLIS: No, Judge. I will be covering
14 for Mr. Richman tomorrow.

15 THE COURT: All right, fine.

16 MR. LEIGHTON: Judge, how long do you
17 expect to work tomorrow? It is Saturday.

18 THE COURT: I assume everyone is going to
19 bring a brown bag tomorrow. I don't expect to work
20 even until 4:30. I think you folks ought to get out
21 my guess is 4 o'clock, unless somebody is in the middle
22 of cross examination. I hate to burse in at that
23 point.

24 MR. LEIGHTON: Thank you.

25 MR. KING: Judge, perhaps I didn't understand

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2 you. If I should be late will your Honor still permit
3 me the resumption.

4 THE COURT: Yes, but you are going to have
5 to wait until after --

6 MR. KING: That is all right with me.

7 THE COURT: All right. Try and be early.
8 Those prayers will be helpful.

9 Goodnight, gentlemen. I will see you in the
10 morning.

11 (Adjourned to February 16, 1974, at 10:00

12 a.m.)
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